

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

Division 70 – Special Education

Chapter 742 – Special Education

RULE

5 CSR 70-742.170 Extraordinary Cost Fund

PURPOSE: This rule sets forth a plan for distributing funds to public school districts which educate students whose service costs exceed five times the district's current expenditure per eligible pupil.

- (1) The cost of special education and related services, as defined by the 1997 Amendments to the Individual With Disabilities Education Act (IDEA), which are needed by some students in public education can be considerable. The purpose of the Extraordinary Cost Fund is to provide a source of support to districts to mitigate the financial stress which may result from the cost of serving student(s) with disabilities whose needs are extraordinary.

There are a limited number of students whose service needs are so extensive as to result in exceptional costs. Regardless of their exceptionality, these students are generally served alongside or near their age-appropriate peers. The stated preference for the use of the funds available from this source is to support services which are provided in the public school environment, unless other placements are necessary to provide the student a free appropriate public education in the least restrictive environment. Funds from this source are available only to public school districts and exclude the State Board Operated Schools.

The purpose of this rule is to provide administrative procedures to public school districts to seek reimbursement for extraordinary costs, if any, associated with serving students with disabilities, as defined by the 1997 Amendments to IDEA. The "Extraordinary Cost Fund" (hereinafter referred to as "the fund"), is made possible by an annual appropriation from state revenue. It is to be used to pay approvable special education and related service costs for students with disabilities when such costs exceed five (5) times the serving district's current expenditure per eligible pupil for the year in which services were provided. Districts may apply no later than October 31 following the close of a school year in which approvable costs were incurred. All applications shall be made on forms provided by the Department of Elementary and Secondary Education, Division of Special Education. Questions should be addressed to Director, Funds Management Section, Missouri Department of Elementary and Secondary Education, Division of Special Education, P.O. Box 480, Jefferson City, MO 65102.

(2) General Provisions

(A) Eligible Applicant Districts and Students – A Missouri public school district which directly serves a student(s) with an educational disability (as defined by the State Plan for Part B of IDEA) and for whom there are extraordinary costs may apply to recover expenses from the fund. In order to be considered for reimbursement of extraordinary costs, the applying school district must show actual approvable expenditures for an individual student which exceed five (5) times the district's current expenditure per eligible pupil for the year in which services were provided. A separate application is required for each student for whom reimbursement is sought. (This quotient is derived from a calculation from data contained in the district's Secretary of the Board Report and core data. The eligible pupil count is the quotient of the number of attendance hours divided by the session hours. Retroactive adjustments may be made to payments to correspond with changes made to the district's post-audit data.)

(B) Approvable Extraordinary Expenditures – Part C includes approvable expenditures which may be reimbursed by the fund. They are the only expenditures which may be included in the calculation of total educational cost required to serve a student for whom an application for recovery of extraordinary costs is submitted. Any and all expenditures claimed on an application are subject to audit and further requests for clarification by the division. The division reserves the right to disapprove any and all expenditures submitted for reimbursement which are not documented as requested or do not qualify as approvable extraordinary costs.

(C) Deadline for Annual Application – An original properly completed form for claiming reimbursement from the fund must be postmarked no later than October 31 in order to be reimbursed for expenditures made during the preceding school year. (Reimbursement may be provided only after actual costs have been incurred for the delivery of a service, program or purchase/lease of a product.) Forms submitted for claiming reimbursement which are incomplete will be returned with corrective advice, but will not be considered submitted for the purpose of complying with the submission deadline. Costs for extended school year (ESY) services should be allocated to the fiscal year(s) in which they are accrued in the district's financial accounting system.

(D) Forms for Application – Claims for reimbursement of extraordinary costs must be submitted on the "Extraordinary Cost Fund Application" form approved by the Division of Special Education. At the discretion of the division, applications may be submitted by paper form, fax or World Wide Web (form retrieval only).

(E) Reconsideration of Denied Expenditures – An applicant may seek reconsideration of expenditures denied for reimbursement by the director of funds management. Requests for reconsideration must be made in writing to the Assistant Commissioner of Special Education, Division of Special Education, within thirty (30) calendar days following the date of the notice of approval or denial. Decisions of the Assistant Commissioner of Special Education shall be made within thirty (30) calendar days of the date of the reconsideration request.

(F) Payment and Possible Proration of Extraordinary Cost Fund Payments – The division will sum all approved reimbursable expenditures prior to distribution of funds following the annual receipt of applications on October 31. If there are insufficient funds to pay all approvable expenditures, payments may be prorated based on the funds available. **Beginning with applications for services provided during the 2000-2001 school term and from funds appropriated for this purpose, the division shall review applications submitted for payment and determine the approved cost after considering an amount per application equal to five (5) times each applicant district's average per pupil expenditure and any disallowed expenditures. Approved costs greater than one hundred thousand dollars (\$100,000) per application shall be paid in full, subject to the availability of funds. If funds are insufficient, such approved costs may be prorated. If funds remain, approved costs of one hundred thousand dollars (\$100,000) or less per application shall be paid in full, or if funds are not sufficient, such approved costs may be prorated.**

(G) Service(s) – As used herein, this is a generic term which refers to any approvable expenditure and may include programs, evaluations, therapies, equipment/devices, instructional materials, etc.

(H) Effect of Fund on School District Financial Responsibility – Nothing contained in these regulations or the administration of the Extraordinary Cost Fund alleviates a public school district's obligation under state and federal law or regulation to provide special education and related services necessary for the provision of FAPE. This obligation is in no way contingent upon the receipt of funds from the Extraordinary Cost Fund.

(3) Approvable Extraordinary Expenditure Categories – Approvable expenditures are organized by categories of service. General and category-specific rules which qualify the reimbursable services are stated. Services which are not represented in the following categories may be considered by the division for reimbursement on a case-by-case basis.

(A) Rules Applicable to All Service Categories

1. Services must be provided in the least restrictive setting/manner appropriate for the student, as reflected in the IEP.
2. Services must be necessary to provide a free and appropriate public education (FAPE), as reflected in the IEP.
3. Services must be specifically included on a current individualized education program (IEP).
4. In the judgment of the Division of Special Education, the services and the method of delivery must be considered an efficient and effective means (e.g., method of delivery, frequency, duration, acceptable practice, etc.) of addressing the needs of the student, as indicated in his/her most recent diagnostic summary and/or IEP.
5. Expenditures are approved based on the following service categories, whether provided through district employees or via purchase of services, e.g., sections (2) through (8).
6. The cost for a direct education service (including professional consultative services) must be allocated in the proportion to which the student whose services are being charged is to the total number of students served.
7. Services and funding available from other public and private sources must be applied before those from the fund and are not to be included in the calculation of total educational cost. Copays or deductibles for accessing such benefits may be included in the calculation of total educational cost. The use of private health insurance benefits to pay portions of the cost of related services must be done with the informed consent of the parent or primary beneficiary of the insurance, and not negatively affect future benefits or costs to the insuree. Public health insurance benefits must be accessed whenever possible.
8. Schools must comply with all applicable laws and regulations in the procurement of services.
9. Written requests for prior approval of expenditures (prior to a district incurring an expense) may be made to the division. Doing so is encouraged for significant expenditures.

(B) Basic Special Education

1. Allocated cost of special education teacher and aide, if any.
2. Allocated cost of materials and equipment required to provide the basic special education program.
 - A. The principal method to be used for making allocations of direct education service, material and equipment expenditures is the proportion which the student(s) qualifying for the fund is of the total number served by a teacher, aide, etc. However, depending on unique situations, the division may, at its discretion, apply an alternate method, including the following:

- (I) the proportion of total time served, or
- (II) the proportion of time or quantity relative to the total, or
- (III) others which may be deemed appropriate by the division.

(C) Related and Other Specialized Ancillary Services

- 1. This category includes related or other specialized services which are provided by staff or as contracted.
- 2. Related service unit costs must be regionally competitive.
- 3. Includes specialized or individualized transportation. (Equipment should be placed under the category of specialized equipment.)
- 4. Medical service is reimbursable only if evaluation-related.

(D) Professional Development

- 1. Monies from the fund may be used for professional development activities essential for staff directly assigned to a student to provide IEP-related services to the student for whom extraordinary cost reimbursement is being requested. General professional development expenditures, e.g., those which are not specialized and based on the qualifying students' IEP needs, are not approvable.

(E) Specialized Equipment

- 1. The division at its discretion may determine the most cost effective basis for reimbursement. It may consider the leasehold cost, purchase price, and useful life, among other relevant criteria in its decision. It too may prorate reimbursement based on these criteria.
- 2. Depending on cost and useful life, the division may recover equipment purchased through the fund for transfer to another student in the state.
- 3. No reimbursement will be provided for the initial development of or major modifications to custom software. Reimbursement may be sought for minor modifications to existing software if such are required by the student's IEP.
- 4. Costs for equipment or for adaptations and modifications to such are reimbursable if documented in the IEP to be required for the student to benefit from special education and related services. Costs must be allocated if equipment is used by multiple students.

(F) Out-of-District Day or Residential Schooling

- 1. Must show evidence of financial participation by other public agencies, if appropriate.
- 2. Must show evidence that the district could not provide an appropriate service locally or by regional partnering.

3. Use of out-of-school-district educational placement must be documented to be required by the IEP, and if relevant, a due process decision issued by the State Board of Education or a court of competent jurisdiction. Out-of-district payments may be made only for placements in other Missouri public school districts or in private agencies approved by the MO Department of Elementary and Secondary Education, Division of Special Education. Funding for out-of-state educational placement will be considered only when there is no appropriate service available in Missouri. (Exceptions may be considered where districts are close to or border other states.)

(G)Capital Facility Renovation

1. At its discretion, the division may give consideration to requests to make minor modification to existing facilities which a) exceed the requirements of the Americans with Disabilities Act Accessibility Guide (ADAAG) and b) are documented to be essential for the student to benefit from special education and related services. Reimbursement for such expenditures may be prorated on a case-by-case basis. All such requests must receive prior written approval from the division.

(H)Specific Expenditure Exclusions

1. No capital construction or renovation beyond that specified herein, including leases for facilities.
2. No indirect or allocable costs for administration or support services. Only direct special education service costs shall be included in the calculation of total educational cost.

AUTHORITY: Section 162.975(1), RSMo. (1994). This is the original rule.

TECHNICAL ASSISTANCE IS AVAILABLE FROM:

Division of Special Education – Funds Management Section

Joyce Jackman: 573/751-4385 or jjackman@mail.dese.state.mo.us

Linda Sneller: 573/522-1076 or lsneller@mail.dese.state.mo.us